

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

MAILED

OCT 20 2005

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte WILLIAM ERIC CORR

Application No. 09/344,169

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on July 8, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On October 23, 2004, an Examiner's Answer was mailed. A review of the Examiner's Answer reveals that the information contained therein pertaining to the appeals conference is not in compliance with the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., Rev. 2, May 2004). The MPEP states in part:

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On the examiner's answer, below the primary examiner's signature, the word "Conferee should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their name.** This will make the record clear that an appeal conference has been held.

The typed conferees names in the answer have not been signed/initialed as required by MPEP § 1208 as noted above.

Appellants filed a Reply Brief on October 18, 2004, in response to the Examiner's Answer mailed August 23, 2004. However, there is no indication on the record whether or not the examiner has responded to the Reply Brief.

37 CFR § 41.43 (a)(1) states:

After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

Accordingly, it is

- ORDERED that the application is returned to the examiner
- (a) for the examiner to submit a proper examiner's answer complying with the MPEP conferee requirements noted above,
  - (b) for the Examiner to mail a copy of the corrected answer to appellants,

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- (c) for the examiner to respond to appellants reply brief in accordance to 37 CFR § 41.43 (a)(1), and
- (d) for such further action as may be appropriate.

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